

SENATE BILL 623 (LRB -4704)

An Act to repeal 344.578 (2); to renumber and amend 344.57 (1) and 344.578 (1); to amend 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576 (3) (b), 344.576 (3) (c) and 344.579 (3); and to create 344.57 (1) (a) and (b) and 344.576 (2) (k) of the statutes; relating to: damages to rental vehicles, and granting rule-making authority.

2006

03-08.	S.	Introduced by Senators Darling and A. Lasee ; cosponsored by Representatives Stone , Hahn , Krawczyk , Albers , Petrowski , Townsend , Montgomery and McCormick .	
02-22.	S.	Read first time and referred to committee on Job Creation, Economic Development and Consumer Affairs	617
03-01.	S.	Public hearing held.	
03-02.	S.	Executive action taken.	
03-04.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 4, Noes 1 (LRB a2577).	
03-04.	S.	Report passage as amended recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 4, Noes 1.	
03-04.	S.	Available for scheduling.	
03-06.	S.	Placed on calendar 3-7-2006 by committee on Senate Organization.	
03-07.	S.	Read a second time.	
03-07.	S.	Senate amendment 1 adopted .	
03-07.	S.	Senate amendment 2 offered by Senator Darling (LRB a2693).	
03-07.	S.	Senate amendment 2 adopted .	
03-07.	S.	Ordered to a third reading.	
03-07.	S.	Rules suspended.	
03-07.	S.	Read a third time and passed .	
03-07.	S.	Ordered immediately messaged.	
03-07.	A.	Received from Senate	929
03-07.	A.	Read	929
03-07.	A.	Rules suspended and taken up	929
03-07.	A.	Read a second time	929
03-07.	A.	Ordered to a third reading	929
03-07.	A.	Rules suspended	929
03-07.	A.	Read a third time and concurred in	929
03-07.	A.	Ordered immediately messaged	929
03-08.	S.	Received from Assembly concurred in.	

2005 ENROLLED BILL

05en S B-623

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

05-470411

Amendments to above (if none, write "NONE"): SA1 - a 2577/1
SA2 - a 2693/1

Corrections - show date (if none, write "NONE"): None

Topic Rel

3/10/06

Date

S. Miller

Enrolling Drafter

ELECTRONIC PROCEDURE:

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling

DISTRIBUTION:

HOUSE OF ORIGIN:

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

REVISOR OF STATUTES:

- 5 copies

DEPARTMENT OF ADMINISTRATION:

- 2 copies

LRB:

- Drafting file original
- Drafting attorney 1 copy
- Legislative editors 1 copy each
- Reference section 1 copy
- Bill index librarian 1 copy

2005 SENATE BILL 623

February 22, 2006 – Introduced by Senators DARLING and A. LASEE, cosponsored by Representatives STONE, HAHN, KRAWCZYK, ALBERS, PETROWSKI, TOWNSEND, MONTGOMERY and MCCORMICK. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT** *to repeal* 344.578 (2); *to renumber and amend* 344.57 (1) and 344.578
2 (1); *to amend* 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576
3 (3) (b), 344.576 (3) (c) and 344.579 (3); and *to create* 344.57 (1) (a) and (b) and
4 344.576 (2) (k) of the statutes; **relating to:** damages to rental vehicles, and
5 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a vehicle rental company may hold a renter liable for damages to a rented vehicle if an accident occurs during the rental period or if the renter of an authorized vehicle causes the damage by reckless or wanton misconduct. Current law defines an “accident” as a collision or other upset to the private passenger vehicle while the vehicle is in operation. The renter is liable for actual and reasonable costs of repairing the vehicle or the fair market value of the vehicle, and for actual and reasonable costs incurred by the rental company for towing and storing the vehicle for up to two days. However, to collect the amount of liability, the rental company must obtain and make available to the renter or his or her insurance company at least two estimates of the cost of repairs from competing repair shops.

Current law allows a rental company to offer or sell a damage waiver to a renter that would eliminate or limit the renter’s liability for damages unless the damage is caused by certain reckless, intentional, prohibited, or illegal acts by the renter. A copy of the damage waiver must be provided to the renter and must explain the details of the waiver, including the limits of liability, exceptions to the waiver, and

SENATE BILL 623

an explanation of the renter's rights and responsibilities under the damage waiver agreement.

Under current law, a rental company may not use credit available pursuant to a credit card belonging to a renter as a deposit for damages for which the renter may be held liable, but it may use credit available pursuant to a credit card belonging to a renter as a deposit for the cost of the vehicle rental.

This bill changes the definition of "accident" to include a collision, theft or loss of the vehicle, or other upset to the vehicle that is not caused intentionally by the renter. A renter is presumed not to have intentionally caused theft or loss to the vehicle if he or she has possession of the ignition key or establishes that the key was not left in the vehicle when the theft or loss occurred, he or she files an official report of the theft or loss with law enforcement authorities, and he or she cooperates in any investigation of the theft or loss.

The bill eliminates the two-day limit on charging storage fees for a vehicle, and eliminates the requirement that a rental agency obtain and furnish a second estimate from competing repair shops before assessing damages against a renter. Rather, under the bill, the rental company must obtain and furnish a second estimate upon request. The bill allows a rental company to use credit available pursuant to a credit card belonging to the rental as a deposit for damages to the vehicle, the cost of the vehicle rental, and any other charges that are agreed to in a rental agreement.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

~~Section 1. 344.57 (1) of the statutes is renumbered 344.57 (1) Intro~~ amended
to read:

344.57 (1) ~~Intro~~ "Accident" means collision of a private passenger vehicle with another object, ~~theft or loss of the private passenger vehicle~~, or other upset of the private passenger vehicle ~~while in operation~~, not caused intentionally by the renter. ~~A renter is presumed to have not caused theft or loss to the vehicle intentionally if all of the following apply:~~

SECTION 2. 344.57 (1) (a) and (b) of the statutes are created to read:

344.57 (1) (a) The renter or authorized driver has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft or loss.

SENATE BILL 623

(b) The renter or authorized driver files an official report of the theft or loss with the police or other law enforcement agency within 24 hours of learning of the theft or loss and reasonably cooperates with the rental company, police, and other law enforcement agencies in providing information concerning the theft or loss.

2m 344.574(1)(a)3.

SECTION 3. 344.574 (2) (a) 2. of the statutes is amended to read:

344.574 (2) (a) 2. Actual and reasonable costs incurred by the rental company for towing the private passenger vehicle and for storage of the private passenger vehicle for no more than 2 days after the renter notifies the rental company of the damage to the vehicle.

SECTION 4. 344.574 (4) (b) of the statutes is amended to read:

344.574 (4) (b) Obtains at least 2 estimates from competing repair shops an estimate on the costs of repairing the private passenger vehicle, makes a copy of each the estimate available upon request to the renter or authorized driver who may be liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be liable under sub. (1) (b) and submits a copy of each the estimate with any claim to collect the amount described in sub. (2) (a). Upon request the rental company shall obtain a 2nd estimate and make a copy available to the requester.

SECTION 5. 344.576 (2) (k) of the statutes is created to read:

344.576 (2) (k) The damage occurs while the private passenger vehicle is operated by someone other than an authorized driver as defined in s. 344.57 (2). This paragraph does not apply if the vehicle has been lost or a theft has occurred and the renter is presumed to have not caused the theft or loss intentionally under s. 344.57

s. 344.574 (1)(a)3.

SECTION 6. 344.576 (3) (a) (intro.) of the statutes is amended to read:

SENATE BILL 623**SECTION 6**

1 344.576 (3) (a) (intro.) A rental company that offers or sells a damage waiver
2 shall provide to each renter a written notice that is ~~in the form required by part of~~
3 the rental agreement or on a separate form described in the rule under par. (c) and
4 that includes all of the following:

5 **SECTION 7.** 344.576 (3) (b) of the statutes is amended to read:

6 344.576 (3) (b) A rental company that offers or sells a damage waiver shall
7 provide the notice described in par. (a) to each renter before the renter enters into a
8 rental agreement. ~~The~~ If a separate form is used to give notice under par. (a), the
9 rental company shall give ~~the~~ each renter one copy of the notice signed by ~~the renter~~
10 him or her and shall retain one copy in its files.

11 **SECTION 8.** 344.576 (3) (c) of the statutes is amended to read:

12 ~~344.576 (3) (c) The department of agriculture, trade and consumer protection~~
13 ~~shall promulgate rules specifying the form of the notice required under par. (a),~~
14 ~~including the size of the paper and the type size and any highlighting of the~~
15 ~~information described in par. (a). The rule may~~ department shall promulgate rules
16 that specify additional information that must be included in the notice in a clear and
17 conspicuous manner that is reasonably designed to be noticed and readily
18 understood by the consumer, and the precise language that must be used.

19 **SECTION 9.** 344.578 (1) of the statutes is renumbered 344.578 and amended to
20 read:

21 **344.578 PROHIBITED DEPOSITS; COLLECTION OF DAMAGES.** ~~A~~ If authorized by the
22 renter, a rental company may not use credit available pursuant to a credit card
23 belonging to a renter as a deposit for damages for which the renter may be held liable
24 under s. 344.574 (2) (a) or for any other charges, except as provided in sub. (2)
25 provided for in the rental agreement. If a rented private passenger vehicle is

8m. 344.576(3)(c)

9m 344.578(1)

SENATE BILL 623

1 damaged, the rental company may use credit available pursuant to a credit card
2 belonging to the renter as payment for the damages for which the renter is liable
3 under s. 344.574 (2) (a) only if the rental company obtains the renter's authorization
4 to use that credit and the authorization is obtained after the total amount of the
5 renter's liability is determined and before the rental company processes the credit
6 card charge.

INSERT 1-12

1-13

7 ~~SECTION 10. 344.578 (2) of the statutes is repealed.~~

8 SECTION 11. 344.579 (3) of the statutes is amended to read:

9 344.579 (3) DEFENSE. Proof by a rental company that the rental company began
10 an action to impose liability upon a renter or authorized driver, ~~even though without~~
11 ~~regard to whether~~ ^{even though} the renter had purchased a damage waiver sold under s. 344.576,
12 because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j) (k)
13 applied is a defense to a prosecution for a violation of the terms of the damage waiver
14 under s. 344.576 (2).

15 (END)

INSERT
1-14

**SENATE AMENDMENT 1,
TO 2005 SENATE BILL 623**

March 4, 2006 – Offered by COMMITTEE ON JOB CREATION, ECONOMIC DEVELOPMENT
AND CONSUMER AFFAIRS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: delete “renumbered 344.57 (1) (intro.)”.

3 **2.** Page 2, line 3: delete “(intro.)”.

4 **3.** Page 2, line 4: delete “, theft or loss of the private passenger vehicle,”.

5 **4.** Page 2, line 6: delete the material beginning with “A renter” and ending
6 with “apply:” on line 7.

7 **5.** Page 2, line 8: delete the material beginning with that line and ending with
8 page 3, line 4, and substitute:

9 **SECTION 2m.** 344.574 (1) (a) 3. of the statutes is created to read:

10 344.574 (1) (a) 3. Theft of the private passenger vehicle intentionally caused
11 by the renter. A renter is presumed not to have caused the theft intentionally if all
12 of the following apply:

1-5

1-5

1 a. The renter or authorized driver has possession of the ignition key furnished
2 by the rental company or establishes that the ignition key furnished by the rental
3 company was not in the vehicle at the time of the theft.

4 b. The renter or authorized driver files an official report of the theft with the
5 police or other law enforcement agency within 24 hours of learning of the theft and
6 reasonably cooperates with the rental company, police, and other law enforcement
7 agencies in providing information concerning the theft.”.

8 **6.** Page 3 line 8: delete “after” and substitute “during the period before”.

9 **7.** Page 3, line 9: after “vehicle” insert “or for 14 days after the damage occurs,
10 whichever period is shorter”.

11 **8.** Page 3, line 16: delete “Upon request” and substitute “If requested within
12 2 working days of giving to the renter or authorized driver the notice required under
13 par. (a).”.

14 **9.** Page 3, line 17: after “estimate” insert “from a competing repair shop”.

15 **10.** Page 3, line 22: delete “s. 344.57” and substitute “s. 344.574 (1) (a) 3.”.

16 **11.** Page 3, line 23: delete that line.

17 **12.** Page 4, line 11: delete the material beginning with that line and ending
18 with page 5, line 6, and substitute:

19 “**SECTION 8m.** 344.576 (3) (c) of the statutes is amended to read:

20 344.576 (3) (c) The department of agriculture, trade, and consumer protection
21 shall promulgate rules specifying the form of the notice required under par. (a),
22 including the ~~size of the paper and the type size~~ and any highlighting of the
23 information described in par. (a) and, in the case of a separate form, the size of the

1-6

1-7

1-8

1-9

1-10

1-12

1-12

1 paper. The rule may specify additional information that must be included in the
2 notice and the precise language that must be used.

3 **SECTION 9m.** 344.578 (1) of the statutes is amended to read:

4 344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. ~~—A—~~ Except as
5 provided in this subsection or in sub. (2), a rental company may not use credit
6 available pursuant to a credit card belonging to a renter as a deposit for damages for
7 which the renter may be held liable under the rental agreement or under s. 344.574
8 (2) (a) or for any other charges, ~~except as provided in sub. (2)~~. If a rented private
9 passenger vehicle is damaged or if the renter owes any other charges provided for in
10 the rental agreement, the rental company may use credit available pursuant to a
11 credit card belonging to the renter as payment for the damages for which the renter
12 is liable under s. 344.574 (2) (a) or for any other charges provided for in the rental
13 agreement only if the rental company obtains the renter's authorization to use that
14 credit and the authorization is obtained after the total amount of the renter's liability
15 or other charges is determined and before the rental company processes the credit
16 card charge.”.

17 **13.** Page 5, line 7: delete that line.

18 **14.** Page 5, line 10: delete the material beginning with “even” and ending with
19 “whether” on line 11 and substitute “even though”.

20 (END)

1-14

**SENATE AMENDMENT 2,
TO 2005 SENATE BILL 623**

March 7, 2006 – Offered by Senator DARLING.

2-1

At the locations indicated, amend the bill as follows:

1. Page 2, line 1: before that line insert:

SECTION 1d. 100.53 (1) (a) of the statutes, as created by 2005 Wisconsin Act 25, is renumbered 100.53 (1) (am).

SECTION 1L. 100.53 (1) (ag) of the statutes is created to read:

100.53 (1) (ag) "Government fee" means any fee charged by a rental company to recover the cost of any fee or charge that is imposed by a government, airport or other transportation authority, or any other government agent that is deemed applicable to the rental of private vehicles in this state.

SECTION 1p. 100.53 (2) (a) of the statutes, as created by 2005 Wisconsin Act 25, is amended to read:

100.53 (2) (a) The statement of the rental rate includes the amount of any title or registration fee or government fee charged by the rental company.

2-11

SECTION 1s. 100.53 (2) (b) of the statutes, as created by 2005 Wisconsin Act 25,
is amended to read:

100.53 (2) (b) The advertisement or representation includes a statement that the customer must pay a title or registration fee or government fee, and the rental company notifies a customer of the amount of the title or registration fee or government fee before the customer enters into an agreement with the rental company.”.

2. Page 2, line 1: delete “**SECTION 1**” and substitute “**SECTION 1v**”.

2-2

(END)